

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Victor B. Perkins,

Case No. 24-CV-1094 (JMB/DTS)

Plaintiff,

v.

**ORDER ON REPORT AND
RECOMMENDATION**

Dr. Jack Daniels, *Chief Psychiatrist*, and
Dr. Dionne Hart, *Staff Psychiatrist*,

Defendants.

This matter is before the Court on Plaintiff Victor B. Perkins's Objection (Doc. No. 15) to the Report and Recommendation (R&R) of United States Magistrate Judge David T. Schultz dated April 12, 2024. (Doc. No. 14.) The R&R recommends that Perkins's Complaint (Doc. No. 6) be dismissed without prejudice, Perkins's Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. No. 2) be denied as moot, and that several motions (Doc. Nos. 7, 8, 9, 10) also be denied as moot. (*See* Doc. No. 14.) Perkins has also filed a Motion to Expedite. (Doc. No. 16.) For the reasons set forth below, the Court overrules Perkins's objection, adopts the R&R, and denies as moot: the Application to Proceed in District Court Without Prepaying Fees or Costs, the other motions, and the Motion to Expedite. *See* (Doc. No. 16.)

The Court reviews the challenged portions of an R&R under a de novo standard of review, 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3); D. Minn. L.R. 72.2(b)(3), and it reviews unchallenged findings for clear error, *see Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Because Perkins is self-represented, his objection is entitled

to liberal construction. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Perkins's objection appears to challenge the Magistrate Judge's recommendation that the Court decline to extend *Bivens*¹ to Perkins's claims. (Doc. Nos. 14, 15.) Perkins offers various legal citations to support his objection but does not identify any error of law or fact that warrants rejection of the Magistrate Judge's recommendation. (*See generally* Doc. No. 15.)

Like the Magistrate Judge, the Court cannot identify any justifiable basis to extend *Bivens* to Perkins's claims. *See generally Victor B.P. v. Daniels*, Case No. 19-CV-2663 (SRN/ECW), 2021 WL 3476710, at *10 (D. Minn. Apr. 12, 2021), *report and recommendation adopted as modified sub nom.*, 2021 WL 2981286 (D. Minn. July 15, 2021) (listing the limited circumstances in which a *Bivens* action is available and declining to extend *Bivens* to claims similar to those raised by Perkins); *see also Hernandez v. Mesa*, 589 U.S. 93, 93 (2020) (discouraging expansion of *Bivens* as “a disfavored judicial activity”); *Ahmed v. Weyker*, 984 F.3d 564, 567 (8th Cir. 2020) (explaining that the Supreme Court has only recognized a cause of action under *Bivens* in three circumstances). Further, the Court has reviewed the unobjected-to aspects of the R&R and discerns no error, clear or otherwise, in the Magistrate Judge's reasoning.

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

1. Plaintiff Victor B. Perkins's objection to the R&R (Doc. No. 15) is OVERRULED.

¹ Under *Bivens*, the “victims of a constitutional violation by a federal agent have a right to recover damages against [that] official in federal court despite the absence of any statute conferring such a right.” *Carlson v. Green*, 446 U.S. 14, 18 (1980) (discussing *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971)).

2. The R&R (Doc. No. 14) is ADOPTED.
 - a. Perkins's Complaint (Doc. No. 6) is DISMISSED WITHOUT PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii);
 - b. Perkins's Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. No. 2) is DENIED as MOOT; and
 - c. Perkins's pending motions—the Motion for Entry of Default (Doc. No. 7), the Motion for a Procedural Show Cause Order (Doc. No. 8), the second Motion for a Procedural Show Cause Order (Doc. No. 9), the Motion for a Procedural Order as an Interlocutory Judgment (Doc. No. 10), and the Motion to Expedite (Doc. No. 16)—are DENIED as MOOT.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 13, 2024

/s/ Jeffrey M. Bryan
Judge Jeffrey M. Bryan
United States District Court